

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of : HABETHA, et al.
Serial No. : 10/599,160
Confirmation No. : 5121
Filing Date : September 21, 2006
Group Art Unit : 2617
Examiner : MAPA, MICHAEL
Attorney Docket No. : 2004P00729WOUS

REPLY BRIEF
On Appeal from Group Art Unit 2617

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Sir:

In addition to the arguments presented in the Appeal Brief filed on June 28, 2011, and in response to the Examiner's Answer ("Answer") dated October 7, 2011, Appellant submits the following reply.

REMARKS

This Reply Brief is in response to the Answer dated October 7, 2011. Reconsideration of this application is respectfully requested in view of the arguments contained in the Appeal Brief filed on June 28, 2011, prior responses and the following remarks.

STATUS OF CLAIMS

- a) Claims 1-37 are pending at the time of filing the appeal brief.
- b) Claims 1 and 31 are independent.
- c) Claims 1-37 stand rejected and are the subject of this appeal.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- A. Whether claims 1-3, 5-7, 9-11, 21, 22, and 26-33 are properly rejected under 35 U.S.C. §102(e) as anticipated by US Patent Publication 2003/0169697 to Suzuki et al. ("Suzuki").
- B. Whether claims 4, 8, 12-20, 23-25, and 34-37 are properly rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of US Patent Publication 2003/0012176 to Kondylis et al. ("Kondylis").

ARGUMENT IN RESPONSE TO THE EXAMINER'S ANSWER

Claims 1 and 31 are not properly rejected under 35 U.S.C. §102(e) as anticipated by Suzuki.

Appellant respectfully rebuts the Examiner's remarks in accordance with the detailed arguments set forth below.

Claim 1

Appellant's claim 1 recites, in part:

partitioning the superframe into a slotted Beaoning Period (BP), having a plurality of contiguous beacon slots, followed by a data transfer period; . . .

Emphasis added.

Appellant asserts that the word "contiguous" is interpreted as touching, in contact with, or sharing a common border.

On pages 26-28 of the Answer, the Examiner contends that the word "contiguous" can also mean neighboring, adjacent, near but not quite touching, or in close proximity without actually touching. Therefore, the Examiner reasons that the plain meaning and broad interpretation of the word "contiguous" cannot be limited to Appellant's interpretation of the term. The Examiner cites Suzuki, figure 17 as disclosing a superframe comprising multiple beacon slots and multiple CAP and CFP slots in between the beacon slots. The Examiner further reasons that each of the multiple beacon slots are in close proximity to each other, thus, Suzuki discloses the claimed "partitioning the superframe into a slotted Beaoning Period (BP), having a plurality of contiguous beacon slots, followed by a data transfer period."

Appellant respectfully rebuts the Examiner's contentions.

Appellant does not agree with nor acquiesce to the Examiner's contention that Suzuki's beacon slots are in close proximity to each other. In contrast, Suzuki Fig. 17 reveals that the beacon slots appear to be relatively far apart from each other. For example, Suzuki Fig. 17 appears to illustrate that the time interval for each of the CAP, CFP, and Unassigned GTS is much greater than the time interval for the beacon slot.

Thus, the beacon slots are not next to each other because they are separated by what appears to be a much larger time interval relative to the time interval of the beacon slot. In other words, the cumulative time intervals of the CAP, CFP, and the Unassigned GTS (between the second and third beacon slots) appear to be far greater than the time interval of the beacon slot. Thus, Suzuki's beacon slots are not next to each other, and therefore cannot be contiguous. As such, Suzuki does not disclose the feature of partitioning the superframe into a slotted Beaconing Period, having a plurality of contiguous beacon slots, followed by a data transfer period, and the rejection of claim 1 under 35 U.S.C. §102(e), should be reversed.

Assuming for the sake of argument that Suzuki's beacon slots are considered to be in close proximity to each other, a position with which Appellant does not agree with nor concede to, Appellant respectfully asserts that the word "contiguous" cannot be interpreted to mean neighboring, adjacent, near but not quite touching, or in close proximity without actually touching, in view of Appellant's specification as originally filed.

MPEP 2111.01 (I), Plain Meaning, defines that the words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the specification.

Also, MPEP 2111.01 (IV), Applicant May Be Own Lexicographer, defines that any special meaning assigned to a term must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention.

On page 3, lines 28-30 of Appellant's specification as originally filed, a Beacon Period is defined by a pre-determined number of contiguous MAS designated by the Beacons of one or more devices, as a BP (also known hereinafter at a slotted Beaconing Period) 104. Emphasis added.

Also, for example, figures 1 and 2B of Appellant's specification clearly illustrates a Beacon Period having a plurality of beacon slots wherein the beacon slots are touching, in contact with, or sharing a common border with each other.

Appellant respectfully asserts that a person having ordinary skill in the art would only interpret the illustrated beacon slots and the accompanying description as

touching, in contact with, or sharing a common border. Therefore, this specific interpretation of the term “contiguous” is made clear in the specification and drawings.

Furthermore, Appellant respectfully asserts that the Examiner’s contention that the term “contiguous” can also mean neighboring, adjacent, near but not quite touching, or in close proximity without actually touching, is inconsistent with the specification. As noted above, the specification and drawings clearly illustrates the beacon slots are touching, in contact with, or sharing a common border with each other. Since the Examiner’s interpretation of “contiguous” is inconsistent with the specification, the assertion that “contiguous” can also mean neighboring, adjacent, near but not quite touching, or in close proximity without actually touching, cannot be applied to claim 1.

On pages 27-28 of the Answer, the Examiner contends that claim 1 can also be broadly interpreted as “partitioning the superframe into a slotted beaconing period, having a plurality of contiguous (beacon slots followed by the data transfer period)” emphasis being given on the open and close parenthesis.

In other words, the Examiner contends that the claim 1 can also be interpreted as a superframe comprising several contiguous beacon periods, each of the beacon periods having a data section transfer period following a beacon slot header.

Appellant respectfully rebuts the Examiner’s contentions.

Claim 1 recites, in part:

partitioning the superframe into a slotted Beaconing Period (BP), having a plurality of contiguous beacon slots, followed by a data transfer period; . . .

Emphasis added.

Appellant respectfully points out that the claimed term “having a plurality of contiguous beacon slots” is preceded and followed by commas, and that the presence of said commas provide additional clarification of the interpretation of the claimed invention such that the claim cannot be interpreted as “partitioning the superframe into a slotted beaconing period, having a plurality of contiguous (beacon slots followed by the data transfer period)” emphasis being given on the open and close parenthesis.

For example, the claimed partitioning the superframe into a slotted Beaconing

Period (BP), having a plurality of contiguous beacon slots, followed by a data transfer period; [a comma follows the term “slots”] is distinct from partitioning the superframe into a slotted Beaconing Period (BP), having a plurality of contiguous beacon slots followed by a data transfer period; [no comma follows the term “slots”].

Appellant respectfully submits that a person of ordinary skill in the art would recognize that the use of the commas provides additional clarification of the features within claim 1. Therefore, Appellant respectfully submits that in view of the presence of the comma after the term “slots,” a person of ordinary skill in the art would not interpret the claimed feature as “partitioning the superframe into a slotted beaconing period, having a plurality of contiguous (beacon slots followed by the data transfer period)” emphasis being given on the open and close parenthesis.

For the reasons set forth above, Appellant respectfully submits that the rejection of independent claim 1 under 35 U.S.C. 102(e), is unfounded and should be reversed. As such, Appellant respectfully submits that claim 1 is in condition for allowance.

Claim 31

On page 29 of the Answer, the Examiner uses substantially the same arguments as set forth with regard to claim 1, alleging that claim 31 is rejected under 35 U.S.C. §102(e) over Suzuki.

Independent claim 31 is different from claim 1 and must be interpreted and evaluated on its own merits. For example, claim 31 is directed to a distributed beaconing apparatus for an ad hoc network device; while claim 1 is directed to a method for a distributed beaconing period protocol for a device in an ad hoc network of devices.

Claim 31 includes at least the patentable subject matter of divide the medium into a sequence of superframes comprising at least one slotted beaconing period (BP) and including a certain number of beacon slots each having a pre-determined beacon slot length, said slotted BP being followed by a data transfer period.

On page 12 of the Answer, the Examiner points to Suzuki, Figs. 4, 7, and 17, alleging that Suzuki discloses a parent superframe has slotted contiguous beacon slots followed by data transfer period. Appellant respectfully traverses this argument.

As noted in the above arguments for claim 1, Suzuki does not disclose a Beaconsing Period. Furthermore, Suzuki does not disclose a Beaconsing Period being followed by a data transfer period, as more particular recited in claim 31. As such, Appellant respectfully submits that the Examiner has not presented a *prima facie* case of anticipation and the rejection of independent claim 31 under 35 U.S.C. 102(e), is unfounded and should be reversed.

CONCLUSION

In light of the above, Appellant respectfully submits that the rejection of claims 1-37 is in error, legally and factually, and must be reversed.

Respectfully submitted,

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